

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

LEGISLATURE SECRETARIAT

Notification

LA/B/867/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 31-3-95 is hereby published for general information in pursuance of the provisions of Rule 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 3rd April, 1995.

The Goa Mundkars (Protection from Eviction) (Amendment) Bill, 1995

(Bill No. 3 of 1995)

A

BILL

Further to amend the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975.

1. *Short title and commencement.*— (1) This Act may be called the Goa Mundkars (Protection from Eviction) (Amendment) Act, 1995.

(2) It shall come into force at once.

2. *Amendment of section 2.*— In section 2 of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (hereinafter called "Principal Act"), after clause (f), the following explanation shall be inserted, namely:—

"*Explanation.*— In its application to any property vested in the Custodian under the Goa, Daman and Diu Administration of Evacuee Property Act, 1964 (Act 6 of 1964), "the custodian" as defined under clause (a) of section 2 of this Act shall be deemed to be "the landlord" for the

3. *Amendment of section 38.*— In the Principal Act, for section 38, the following shall be substituted, namely:—

"38. *Act to over-ride other laws, etc.*— (1) (a) and from the date to be notified by the Government by notification in the Official Gazette, the provisions of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act 1 of 1976), for the time being in force, shall apply in respect of any property declared to be evacuee property and vested in the Custodian under the provisions of the Goa, Daman and Diu Administration of Evacuee Property Act, 1964 (Act 6 of 1964).

(2) The provisions of this Act shall, save as expressly provided in this Act, have effect notwithstanding anything in any other law or any custom or usage or decree or order of a court, or any agreement or contract, express or implied, inconsistent with the provisions of this Act."

Statement of objects and reasons

The provisions of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 which seeks to confer on the Mundkars better protection from eviction from their dwelling houses and also grant them the right to purchase such houses with the site on which the houses have been built within a reasonable price has not been made applicable to the evacuee properties. Though, in the year 1989, the Agricultural Tenancy Act which was not applicable to the evacuee property was made applicable and the tenants of the evacuee property were given a right to purchase their agricultural land, similar benefits were not conferred on the mundkars of the evacuee properties. There is a constant demand from the mundkars residing in the evacuee properties at Mayem in Bicholim Taluka and at Cudnem, Siolim in Bardez taluka.

Financial Memorandum

No financial implications are involved in the Bill.

Panaji, SHASHIKALA KAKODKAR
2nd March, 1995. M. L. A.

Panaji, (ASHOK B. ULMAN)
Assembly Hall, Secretary to the Legislative
8th March, 1995. Assembly of Goa.

(Annexure to Bill No. 3 of 1995)

The Goa Mundkars (Protection from Eviction) (Amendment) Bill, 1995.

The Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975

(Act - 1 of 1976)

Section 2 (f). "bhatkar" means a person who owns the land on which the mundkar has a dwelling house.

Section 38. Act to over-ride other laws etc. — The provisions of this Act shall have effect notwithstanding anything in any other law or any custom or usage or decree or order of a court, or any agreement or contract express or implied, inconsistent with the provisions of this Act.

Assembly Hall, ASHOK B. ULMAN
Panaji, Secretary to the Legislative
8th March, 1995. Assembly of Goa.

LAW (LEGAL & LEGISLATIVE AFFAIRS) DEPARTMENT

Notification

7/13/95-LA

The Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 1995 (Goa Act 8 of 1995) which has been passed by the Legislative Assembly of Goa on 30-3-1995 and assented to by the Governor of Goa on 4-4-1995, is hereby published for general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 5th April, 1995.

The Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 1995

(Goa Act No. 8 of 1995) [4-4-1995]

AN
ACT

further to amend the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988.

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. Short title and commencement.— (1) This Act may be called the Goa Tax on Luxuries (Hotels and

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 13.— In section 13 of the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988 (Act 17 of 1988) (hereinafter referred to as the "principal Act"),—

(i) after sub-section (4), the following sub-sections shall be inserted, namely:—

"(4A) If default is made in making payment in accordance with the provisions of sub-section (3) or sub-section (4),—

(i) the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax under this Act; and

(ii) the person or persons liable to pay tax or any other amount due under this Act shall also be liable to pay interest during the period of default as under:—

(a) one and half per cent of the amount of tax remaining unpaid for each month for the first three months after the expiry of the time prescribed;

(b) two per cent on such amount for each month subsequent to the first three months as aforesaid.

Explanation:— For the purposes of clause (ii) above, the interest payable for a part of the month shall be worked out proportionately.

(4B) Notwithstanding anything contained in sub-section (4A), the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any person or class of persons.

(4C) Any tax assessed or any other amount due under this Act from a hotelier or any other person may, without prejudice to any other mode of collection, be recovered —

(a) as if it were an arrears of land revenue; or

(b) by attachment and sale or by sale without attachment of any property of such hotelier or any other person by the officer appointed under sub-section (2) of section 3, in accordance with such rules as may be prescribed".

(ii) for the proviso to clause (b) of sub-section (6), the following shall be substituted, namely:—

"Provided further that, the Commissioner or any person appointed to assist him under sub-section (2) of section 3, may, in respect of any particular hotelier or person, and for reasons to be recorded in writing and on payment of interest at such rate as may be specified in the order, extend the date of such payment, or allow him to pay tax due or penalty or interest levied if any

(iii) for clauses (a) and (b) of sub-section (7), the following clauses shall be respectively substituted, namely:—

“(a) When a hotelier is in default in making payment of the tax assessed or re-assessed or of penalty imposed or interest levied, there shall be paid by such hotelier for the period commencing from the date of expiry of the date specified in the notice for payment and ending on the date of payment of the amount, simple interest at the rate of 24% per annum of the amount not so paid.

(b) Notwithstanding anything contained in clause (a), the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any person or class of persons.

(c) Any amount of tax or penalty or interest which remains unpaid after the date prescribed for payment or the date specified in the notice for payment, or in the order of imposition of penalty, or after the extended date of payment and any instalments not duly paid, shall be recoverable as arrears of land revenue.”

3. *Amendment to section 18.*—In section 18 of the principal Act, for clause (b) of sub-section (1), the following clause shall be substituted, namely:—

“(b) being a hotelier liable to pay tax under this Act, or being a hotelier who was required so to do by the Commissioner by a notice, served on him, fails in contravention of sub-section (1) of section 26 to keep a true account of his turnover of receipts or fails when directed so to do under that section to keep any account or record in accordance with direction, he shall be liable to pay, in addition to any tax for which he may be liable, a penalty of an amount as follows:—

(i) Where there has been contravention referred to in sub-clauses (i) and (iii) of clause (a), a penalty of an amount not exceeding two thousand rupees or double the sum collected by way of tax, whichever is less.

(ii) Where there has been a contravention referred to in sub-clause (ii) of clause (a) or in clause (b), a penalty of an amount not exceeding two thousand rupees and in addition, any sum collected by the person by way of tax in contravention of section 24 shall be forfeited to the State Government.”

Notification

7-8-95/LA

The Goa Sales Tax (Amendment) Act, 1995 (Goa Act 9 of 1995) which has been passed by the Legislative Assembly of Goa on 30-3-1995 and assented to by the Governor of Goa on 4-4-1995, is hereby published for general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 5th April, 1995.

The Goa Sales Tax (Amendment) Act, 1995

(Goa Act No. 9 of 1995) [4-4-1995]

AN

ACT

further to amend the Goa Sales Tax Act, 1964.

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa Sales Tax (Amendment) Act, 1995.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In the Goa Sales Tax Act, 1964 (Act 4 of 1964) (hereinafter referred to as the “principal Act”), for the words “the Government” wherever they occur, the words “the State Government” shall be substituted.

3. *Amendment of section 2.*—In section 2 of the principal Act, —

(i) after clause (aaaa), the following shall be inserted, namely:—

“(aaaa) “Commission agent” means a registered dealer who bonafidely buys or sells for an agreed commission any goods on behalf of the principal mentioned in his accounts in respect of each transaction;”

(ii) the existing clauses (aaaaa), (aaaaaa) and (aaaaaaa) shall be renumbered as (aaaaaaa), (aaaaaaa) and (aaaaaaa) respectively.

(iii) in clause (b), after Explanation 3, the following shall be inserted, namely:—

“Explanation 4.—Each of the following persons and bodies who dispose of any goods including goods as unclaimed or confiscated or as unserviceable or as scrap, surplus, old, obsolete or discarded material or waste products whether by auction or otherwise, directly or through an agent for cash, or for deferred payment, or for any other valuable consideration, shall, notwithstanding anything contained in clause (aaa) or any other provision of this

Act, be deemed to be a dealer, to the extent of such disposals, namely:—

- i) Port Trust;
 - ii) Municipal Council, and other local authorities;
 - iii) Railway Administration as defined under the Indian Railway Act, 1890 (Act 9 of 1890);
 - iv) Shipping, transport and construction companies;
 - v) Air transport Companies and Airlines;
 - vi) Transporters, holding permit for transport vehicles granted under the Motor Vehicles Act, 1988 (Act 59 of 1988) which are used or adopted to be used for hire;
 - vii) Customs Department of the Government of India administering the Customs Act, 1962 (Act 52 of 1962);
 - viii) Insurance and Financial Corporations or Companies and Banks included in the Second Schedule to the Reserve Bank of India Act, 1934 (Act 2 of 1934);
 - ix) Advertising agencies;
 - x) Any other corporation, company, body or authority owned or set-up by, or subject to administrative control of the Government."
- (iv) for clause (e), the following shall be substituted, namely:—
- " "Government" shall include the Central or any State Government; "
- (v) after clause (g), the following shall be inserted, namely:—
- " (gg) "Person" includes any company or association or body of individuals whether incorporated or not, and a Hindu undivided family, a firm and a local Authority; "
- (vi) in item (iv) of clause (k), after the words "right to use any goods", the following words shall be inserted, namely:—

"as specified in the Seventh Schedule".

(vii) in clause (l), the following explanation shall be added:—

"*Explanation.*—For the purposes of this clause, the amount of duties levied or leviable on goods under the Central Excise on Salt Act, 1944 (Act 1 of 1944) or the Customs Act, 1962 (Act 52 of 1962) or the Goa Excise Duty Act, 1964 (Act 5 of 1964) shall be deemed to be part of the sale price to such goods whether such duties are paid or payable by or on behalf of the seller or the purchaser or any other person."

(viii) after the clause (a), the following shall be inserted, namely:—

"(b) "State" means State of Goa;

(c) "State Government" means the Government of Goa;"

4. *Amendment of section 4.*— In section 4 of the principal Act, —

(A) in sub-section (5),—

(i) for clause (a), the following shall be substituted, namely:—

"(a) in relation to any dealer who imports or brings for sale into the State or to whom any taxable goods are despatched from any place outside the State for sale or who manufactures or produces any taxable goods for sale, and the value of such taxable goods imported or brought, or manufactured or produced by him or despatched to him during the year is not less than Rs. 5,000/- (Rupees five thousand) ... Thirty thousand rupees".

(ii) the clause (b) shall be omitted;

(iii) for clause (c), the following shall be substituted, namely:—

"(c) in relation to a non-resident dealer and a casual trader where the value of taxable goods sold by such dealer or trader during the year is not less than Rs. 5,000/- (Rupees five thousand), Rupees ten thousand;"

(iv) for clause (d), the following shall be substituted, namely:—

"(d) in relation to any other dealer, where the value of taxable goods sold by such dealer during the year is not less than Rs. 5,000/- (Rupees five thousand) one lakh rupees."

(B) in proviso, for words "thirty thousand rupees", the words "one lakh rupees" shall be substituted.

5. *Amendment of section 7.*— In sub-section (3) of section 7 of the principal Act, —

(a) after clause (VI) the following shall be inserted, namely:—

"(VII) Value of goods sold through commission agent in the State, subject to production of satisfactory proof of payment of tax by such commission agent in case the goods sold are liable to tax under this Act."

(b) the existing clause (VII) shall be renumbered as clause (VIII).

6. *Amendment of section 7A.*— In sub-section (1) of section 7A of the principal Act, after first proviso, the following shall be inserted, namely:—

"Provided further that in calculating the gross turnover for purpose of levy of additional tax, the sales which are shown to the satisfaction of the Commissioner to have taken place outside the State shall be excluded."

7. *Amendment of section 12.* — In sub-section (1) of section 12 of the principal Act, for the words "ten thousand rupees", the words "thirty thousand rupees" shall be substituted.

8. *Amendment of section 13.* — In section 13 of the principal Act, — (i) in sub-section (1), for the words "ten thousand rupees per year", the words "thirty thousand rupees per year" shall be substituted.

(ii) in sub-section (6), for the words "granted under this section shall be in force", the words "granted under this section shall take effect from the date of furnishing security and shall remain in force" shall be substituted.

9. *Amendment of section 14A.* — For existing section 14A of the principal Act, the following shall be substituted, namely:—

"14A. — Addition of purchase value of goods to the taxable turnover in certain contingencies:—

Notwithstanding anything to the contrary contained in this Act, the purchase value of goods shall be added to the taxable turnover of the dealer in following contingencies:—

(i) When the Registration Certificate of any dealer is cancelled on the ground of discontinuance of his business, the price of all goods purchased by him on the strength of declaration/certificate referred to in items (a) and (b) of first proviso to clause (II) of sub-section (3) of section 7 of the Act shall be added to his taxable turnover and taxed at the rate leviable on them at the time of their purchase.

(ii) When any goods specified in the Certificate of Registration are purchased by the registered dealer for any of the purposes specified in item (a) or (b) of clause (II) of sub-section (3) of section 7 but are utilised by him for any other purposes, or are not re-sold in the manner and within the period prescribed, the price of the goods so purchased shall be added to the taxable turnover of the said registered dealer and taxed at the rate leviable on them at the time of their purchase."

10. *Insertion of section 19A.* — After section 19 of the principal Act, the following shall be inserted, namely:—

"19A.—*Interest on delayed refund.*— (1) Where any amount required to be refunded by the Commissioner to any person by virtue of an order issued under this Act is not so refunded to him within 90 days of the date of the order, the State

at the rate of 12% p. a. on the said amount from the date immediately following the expiry of the period of 90 days to the date of the refund:

Provided that where the amount becomes refundable by virtue of the order of the Tribunal or Court, the interest under the provisions of this section shall be payable from the date immediately following the expiry of period of 90 days from the date of the receipt of the order of the Tribunal or Court by the Officer whose order forms the subject of the proceedings before the Tribunal or Court as the case may be, to the date of refund.

Explanation.—(1) If the delay in granting the refund within the period of 90 days aforesaid is attributable to the dealer, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

(2) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner, whose decision shall be final."

11. *Amendment of Second Schedule.* — In Second Schedule appended to the principal Act,—

(I) for the existing entry 10, the following shall be substituted, namely:—

"10(i) Sugar as described from time to time in column 3 of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957);

(ii) gur, molasses and sugarcane."

(II) for the existing entry 15, the following shall be substituted, namely:—

"15. cotton fabrics, man made fabrics and woolen fabrics as described from time to time in column 3 of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957);"

(III) for the existing entry 27, the following shall be substituted, namely:—

"27. Tobacco as described from time to time in column 3 of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957);

(IV) for the existing entry 64, the following shall be substituted, namely:—

"64. life saving drugs as may be notified by

(V) in the existing entry 68, after the third proviso, the following shall be inserted, namely:—

“Provided further that the exemption under this entry will not be available to the goods manufactured, processed or assembled or sold under trade mark or brand name owned by any other industry or person”.

(VI) in the existing entry 85, after the third proviso, the following shall be inserted, namely:—

“Provided further that the exemption under this entry will not be available to the goods manufactured, processed or assembled or sold

under trade mark or brand name owned by any other industry or person.”

(VII) for the existing entry 95, the following shall be substituted, namely:—

“95. Fishing requisites including fish net twine;”

Secretariat Annexe,
Panaji,
5th April, 1995.

DEV TRIVEDI
Secretary to the Government
of Goa,
Law Dept. (Legal Affairs)